

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Valerie K. Boots
Marion County Public Defender Agency
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
Daylon L. Welliver
Deputy Attorney General
David P. Dekold
Certified Legal Intern
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Jeffery L. Morrow,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

August 23, 2023

Court of Appeals Case No.
23A-CR-158

Appeal from the Marion Superior
Court

The Honorable Mark D. Stoner,
Judge

The Honorable Andrew J.
Borland, Magistrate

Trial Court Cause No.
49D32-1903-F4-8413

Memorandum Decision by Judge Weissmann
Judges Riley and Bradford concur.

Weissmann, Judge.

- [1] Jeffery Morrow repeatedly violated the terms of his community corrections placement by travelling to unauthorized locations, failing to charge his electronic monitoring device (GPS device), engaging in disorderly conduct, and using intoxicants. When Morrow committed yet another violation by removing his GPS device, the trial court revoked his community corrections placement and ordered him to serve the remaining 677 days of his sentence in the Indiana Department of Correction (DOC). Morrow appeals, claiming this sanction is unduly harsh. We find the trial court did not abuse its discretion and affirm.

Facts

- [2] In 2019, Morrow pleaded guilty to, and was convicted of, unlawful possession of a firearm by a serious violent felon, a Level 4 felony, and resisting law enforcement, a Class A misdemeanor. For the felony conviction, the trial court sentenced Morrow to 8 years, with 4 years direct placement in Marion County Community Corrections (MCCC), to be served on home detention, and “4 years suspended to [1] year of probation.” App. Vol. II, p. 151. For the misdemeanor conviction, the trial court sentenced Morrow to 1 year in community corrections, to be served concurrently with his felony sentence.
- [3] Between January 2020 and February 2021, MCCC filed three separate notices that Morrow had violated the terms of his community corrections placement. The first notice alleged that Morrow travelled to unauthorized locations while on a pass from home detention; the second and third notices collectively alleged

that Morrow failed to charge his GPS device on eight separate occasions. Although the record does not reveal a finding regarding the allegations in the second notice, Morrow admitted to the allegations in the first and third. As sanctions, the trial court first continued Morrow on home detention under “strict compliance.” App. Vol. II, p. 21. It then modified his community corrections placement to work release.

[4] In May 2021, MCCC filed a fourth notice of community corrections violation, alleging Morrow engaged in disorderly conduct and used “intoxicants” in his work release facility. App. Vol. II, p. 207. The Marion County Probation Department also filed a notice of probation violation based on this latest alleged community corrections violation. After a hearing, the trial court found that Morrow violated the terms of his community corrections placement. The court then revoked Morrow’s probation and modified his community corrections placement back to home detention. The court also ordered Morrow to participate in a mental health treatment program, but his participation was intermittent.

[5] In October 2021, MCCC filed a fifth notice of community corrections violation. This notice alleged that Morrow left home detention without authorization five times, traveled to unauthorized locations while on a pass, and was arrested for and charged with domestic battery and battery resulting in bodily injury. The criminal charges were eventually dismissed, and the record does not reveal a finding as to the other allegations. After a hearing, however, the trial court continued Morrow’s placement on home detention.

- [6] On November 7, 2021, MCCC filed its sixth and final notice of community corrections violation after Morrow allegedly removed his GPS device. At a contested hearing on the matter, Morrow’s case manager—Crystal Wilson—testified that Morrow “caused a scene” at the MCCC office on the morning of the alleged violation. Tr. Vol. II, p. 15. The incident occurred when Morrow appeared at the office to give Wilson some paperwork related to a drug screen. But during his visit, Morrow complained that he was on “involuntary house arrest,” demanded to speak with a supervisor, and threatened to cut off his GPS device. *Id.* at 15, 19.
- [7] According to Wilson, she received a “strap tamper alert” an hour later, which indicated that Morrow’s GPS device either was broken or had been tampered with. *Id.* at 11. Wilson therefore called Morrow and left a voicemail message advising him to “report to maintenance.” *Id.* Another two hours later, Wilson received a call from Morrow’s partner, who reported that Morrow was at home actively trying to cut off his GPS device. His GPS device was later located in a trash can in downtown Indianapolis.
- [8] Ultimately, the trial court found Morrow violated the terms of his community corrections placement and, as a sanction, ordered him to serve the remaining 677 days of his sentence in the DOC. The court also ordered Morrow to receive an evaluation of, and treatment for, his mental health while in prison.

Discussion and Decision

- [9] Morrow does not contest the trial court's finding that he violated the terms of his community corrections placement. He claims only that the trial court erred in sanctioning him for the violation. We find no error.
- [10] Like probation, community corrections is a "matter of grace" left to trial court discretion, not a right to which a defendant is entitled. *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999). After a trial court exercises its grace by placing a defendant in community corrections, the court has "considerable leeway" in sanctioning the defendant for violating the placement's terms. *Hill v. State*, 28 N.E.3d 348, 350 (Ind. Ct. App. 2015) (citing *Prewitt v. State*, 878 N.E.2d 184, 188 (Ind. 2007)). A trial court's sanctioning decision is reviewed for an abuse of that discretion. *Id.* Thus, we will reverse only if the decision is clearly against the logic and effect of the facts and circumstances. *Id.*
- [11] Morrow contends his "mental health issues and confusion" at the time of his final violation, as evidenced by the scene he made at the MCCC office earlier that day, "mitigate the seriousness of the violation." Tr. Vol. II, p. 9. He therefore claims the trial court abused its discretion by ordering him to serve the remainder of his sentence in the DOC. Morrow, however, was not fully availing himself of court-ordered mental health treatment at the time of his violation. And the violation was not an isolated incident.
- [12] Morrow repeatedly violated the terms of his community corrections placement by travelling to unauthorized locations, failing to charge his GPS device,

engaging in disorderly conduct, and using intoxicants. As a result of these violations, the trial court progressively modified the terms of Morrow's community corrections placement—from home detention to strict compliance on home detention to work release. Though Morrow was eventually returned to home detention, his violations continued, culminating in him cutting off his GPS device and absconding.

[13] Committing Morrow to the DOC ensures that he will receive the mental health treatment he admittedly needs. We affirm the trial court's judgment.

Riley, J., and Bradford, J., concur.